

Remarks

Claims 63-78 are pending in the subject application. By this Amendment, Applicants have amended claims 63, 66-70 and 73-76. Support for the amendments can be found throughout the subject specification and in the claims as originally filed (see, for example, page 25, lines 15-20). Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 63-78 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

Applicants gratefully acknowledge the Examiner's withdrawal of the objections to the title, claims, and sequence listing and the rejections under 35 U.S.C. §§ 101, 102 and 112, second paragraph.

Applicants note that the Office Action maintains the objection to the oath or declaration in this matter because the foreign priority must be disclosed in the oath/declaration. Applicants respectfully submit that the foreign priority information for this application (under 35 U.S.C. § 119) was identified on the Application Data Sheet (ADS) when the subject application was filed and on the Supplemental ADS filed August 31, 2005. Applicants respectfully submit that the filing of the ADS fulfills the requirements of identifying the foreign priority. For example, 37 C.F.R. § 1.76(b)(6) states:

- (6) *Foreign priority information.* This information includes the application number, country, and filing date of each foreign application for which priority is claimed, as well as any foreign application having a filing date before that of the application for which priority is claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and §1.55(a).

Furthermore, Applicants respectfully submit that 37 C.F.R. §1.63(c) states:

- (c) Unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify:
  - (1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor; and

- (2) Any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to § 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing.

Thus, it is respectfully submitted that it is not necessary to identify foreign priority information in an oath/declaration where such information is provided in an ADS in accordance with 37 C.F.R. §1.76.

Applicants further direct the Examiner's attention to M.P.E.P. § 200 where such requirements are also discussed. As indicated at page 200-78, column 1, paragraph 3 of the M.P.E.P. (revision 6, 2007):

A priority claim need not be in any special form and may be a statement signed by a registered attorney or agent. A priority claim can be made on filing: (A) by including a copy of an unexecuted or executed oath or declaration specifying a foreign priority claim (see 37 CFR 1.63(c)(2)); or (B) by submitting an application data sheet specifying a foreign priority claim (see 37 CFR 1.76).

A copy of this page is attached to this response for the convenience of the Examiner. Accordingly, it respectfully submitted that the oath/declaration in this matter is not defective and reconsideration and withdrawal of the requirement for a new oath is respectfully requested.

The abstract of the disclosure of the subject specification has been objected to for not completely describing the disclosed subject matter. In the Office Action dated June 15, 2007, the Examiner suggested the inclusion of the name of the polypeptide (INSP082 which is a germinal center kinase) and the source of the polypeptide (human) for completeness of the abstract. Applicants amended the abstract in accordance with the Examiner's suggestion. The Examiner has maintained an objection as to the insufficiency of the abstract; however, there has been no elaboration as to what aspect of the abstract is insufficient. Accordingly, reconsideration and withdrawal of the objection is respectfully requested as no basis for its insufficiency has been provided. Applicants respectfully request the Examiner contact the undersigned representative to suggest amendments to the abstract in the event any additional changes to the abstract are required.

Claims 63, 66-70 and 73-76 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention and as nonenabled by the subject specification. The Office Action indicates that the claims encompass any isolated polypeptide comprising any amino acid sequence that has a certain percent identity to any portion of the amino acid sequence within SEQ ID NO: 100, or comprising any fragment of SEQ ID NO: 100. Applicants respectfully assert that there is adequate written description in the subject specification to convey to the ordinarily skilled artisan that they had possession of the claimed invention and that the claims are enabled. Applicants respectfully submit that the previously presented claims were directed to polypeptides that have a defined percent identity to SEQ ID NO: 100 over its full length. During the course of an interview with the Examiner, the language presented in this amendment was settled on as conveying this aspect of the invention. Accordingly, claims 63 and 70 have been amended to recite “said amino acid sequence having at least 95% identity to the full length of SEQ ID NO: 100” and claims dependent therefrom have been amended in a similar fashion. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first paragraph, is respectfully requested.

Claims 63, 66-70 and 73-78 are rejected under 35 U.S.C. §102(b) as anticipated by Nakano *et al.* (2000). The Office Action states that the polypeptide of Nakano *et al.* meets the limitation of the claims due to the fact that the water used to make the lysis buffer by Nakano *et al.* meets the limitation of pharmaceutical carrier and as an adjuvant. Applicants respectfully assert that the Nakano *et al.* reference does not anticipate the claimed. As indicated in the previous response, the reference does not anticipate the claimed invention as it fails to teach a polypeptide that has at least 95% identity to the full length of SEQ ID NO: 100. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) is respectfully requested.

It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicants’ agreement with or acquiescence in the Examiner’s position. Applicants expressly reserve the right to pursue the invention(s) disclosed in the subject application, including any subject matter canceled or not pursued during prosecution of the subject application, in a related application.

In view of the foregoing remarks and amendments to the claims, Applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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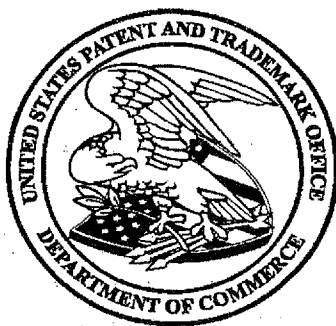
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Attachment: Page 200-78 of the M.P.E.P. (revision 6, 2007)

# **Manual of PATENT EXAMINING PROCEDURE**

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U.S. DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Guinea. Since all these countries adhere to the Paris Convention for the Protection of Industrial Property, priority under 35 U.S.C. 119(a)-(d) may be claimed of an application filed in the OAPI Patent Office.

If any applicant asserts the benefit of the filing date of an application filed in a country not on this list, the examiner should contact the Office of International Relations to determine if there has been any change in the status of that country. It should be noted that the right is based on the *country* of the foreign filing and not upon the citizenship of the applicant.

## **II. RIGHT OF PRIORITY (35 U.S.C. 119(a)-(d) AND 365) BASED ON A FOREIGN APPLICATION FILED UNDER A BILATERAL OR MULTILATERAL TREATY**

Under Article 4A of the Paris Convention for the Protection of Industrial Property a right of priority may be based either on an application filed under the national law of a foreign country adhering to the Convention or on a foreign application filed under a bilateral or multilateral treaty concluded between two or more such countries. Examples of such treaties are The Hague Agreement Concerning the International Deposit of Industrial Designs, the Benelux Designs Convention, and the Libreville Agreement of September 13, 1962, relating to the creation of an African Intellectual Property Office. The Convention on the Grant of European Patents, the Patent Cooperation Treaty (MPEP § 201.13(b)), the Office for Harmonization in the Internal Market (OHIM), and the Community Plant Variety Office (CPVO) are further examples of such treaties.

### **A. The Priority Claim**

A priority claim need not be in any special form and may be a statement signed by a registered attorney or agent. A priority claim can be made on filing: (A) by including a copy of an unexecuted or executed oath or declaration specifying a foreign priority claim (see 37 CFR 1.63(c)(2)); or (B) by submitting an application data sheet specifying a foreign priority claim (see 37 CFR 1.76).

In claiming priority of a foreign application previously filed under such a treaty, certain information must be supplied to the U.S. Patent and Trademark Office. In addition to the application number and the date of the filing of the application, the following

information is required: (A) the name of the treaty under which the application was filed; and (B) the name and location of the national or intergovernmental authority which received such application.

### **B. Certification of the Priority Papers**

35 U.S.C. 119(b)(3) authorizes the Office to require the applicant to furnish a certified copy of priority papers. Applicants are required to submit the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in 37 CFR 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323. See 37 CFR 1.55(a)(2). Certification by the authority empowered under a bilateral or multilateral treaty to receive applications which give rise to a right of priority under Article 4A(2) of the Paris Convention will be deemed to satisfy the certification requirement.

### **C. Identity of Inventors**

The inventors of the U.S. nonprovisional application and of the foreign application must be the same, for a right of priority does not exist in the case of an application of inventor A in the foreign country and inventor B in the United States, even though the two applications may be owned by the same party. However, the application in the foreign country may have been filed by the assignee, or by the legal representative or agent of the inventor which is permitted in some foreign countries, rather than by the inventor himself, but in such cases the name of the inventor is usually given in the foreign application on a paper filed therein. An indication of the identity of inventors made in the oath or declaration accompanying the U.S. nonprovisional application by identifying the foreign application and stating that the foreign application had been filed by the assignee, or the legal representative, or agent, of the inventor, or on behalf of the inventor, as the case may be, is acceptable. Joint inventors A and B in a nonprovisional application filed in the United States Patent and Trademark Office may properly claim the benefit of an application filed in a foreign country by A and another application filed in a foreign country by B, i.e., A and B may each